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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )

Assessment and Collection )  
of Regulatory Fees for )  
Fiscal Year 1995 )

MD Docket No. 95-3

Reply Comments of Bell Atlantic

As Bell Atlantic<sup>1</sup> emphasized in its initial comments,<sup>2</sup> the Commission should ensure that it accurately calculates the regulatory fee for each industry. In contrast, certain of the other commenters focused on self-serving suggestions that the Commission reallocate the fees to place a disproportionate burden on local exchange carriers ("LECs"). Their arguments should be rejected.

For example, the American Public Communications Council ("APPC") complains that the fee for pay telephone service should be expanded to include LECs providing such services.<sup>3</sup> Unlike independent pay phone providers, however, Bell Atlantic and other LECs already are required to pay a fee based on the number of presubscribed lines, *including* pay telephone lines. To charge LECs

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<sup>1</sup> For the purposes of this pleading Bell Atlantic includes Bell Atlantic Mobile and the Bell Atlantic telephone companies. The Bell Atlantic telephone companies are Bell Atlantic - Delaware, Inc.; Bell Atlantic - Maryland, Inc.; Bell Atlantic - New Jersey, Inc.; Bell Atlantic - Pennsylvania, Inc.; Bell Atlantic - Virginia, Inc.; Bell Atlantic - Washington, D.C., Inc.; and Bell Atlantic - West Virginia, Inc.

<sup>2</sup> Comments of Bell Atlantic at 1.

<sup>3</sup> Comments of the APPC at 3-6.

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a fee on top of that for their pay telephones would double count their activity and would impose an unfair burden.

Other commenters complain of sticker shock or large percentage increases in fees.<sup>4</sup> To the extent that an industry was not paying its fair share in prior years, however, a large increase may be reasonable.<sup>5</sup>

LDDS Communications calls for extra fees to be imposed on the RBOCs and AT&T based on their market size.<sup>6</sup> LDDS ignores the fact that, by virtue of their size (i.e. number of lines), those companies will pay a *proportionately* higher fee than smaller companies. It is clearly unreasonable, however, to require a *disproportionately* higher fee as advocated by LDDS.<sup>7</sup> In fact, because of their large size, the Commission's cost of regulatory oversight per line is likely lower for an RBOC than for a smaller carrier that has many regulatory filings that are similar to the RBOCs, but cover a much smaller number of lines.

Finally, the National Cable Television Association ("NCTA") complains that the allocation of fees to the cable industry is

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<sup>4</sup> See, e.g., Comments of the Association of Local Telecommunications Services at 2.

<sup>5</sup> For example one competitive access provider ("CAP") complains of "rate shock" and "draconian new reporting requirements" when all the Commission proposes to do is try to bring CAPs toward parity with the existing requirements on LECs. Comments of Cablevision Lightpath at 2, 5.

<sup>6</sup> Comments of LDDS Communications at 27.

<sup>7</sup> See *United States Telephone Association v. FCC*, 28 F.3d 1232, 1236 (D.C. Cir. 1994) (FCC cannot arbitrarily subject one class of companies to heavier fines than another class).

"unfair and unwarranted."<sup>8</sup> First, the cable TV industry has flooded the Commission with filings that seek to avoid the Congressional mandate of rate regulation. Second, the Commission's proposed allocation of fees ignores the added costs to the Commission resulting from the cable industry's constant, voluminous, and often frivolous filings made in an effort to prevent competition from telephone companies.<sup>9</sup> If anything, cable's allocation is disproportionately low because the cost of those filings are included as part of the cost of regulation of telephone companies and not cable.

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<sup>8</sup> Comments of NCTA at ii.

<sup>9</sup> See, e.g., Comments of The National Cable Television Assoc., Inc., *BOC Notice of Compliance with CEI Waiver Requirements for Market Trials of Enhanced Services*, CC 88-616 (filed Feb. 21, 1995); NCTA's Motion to Dismiss, *The Chesapeake & Potomac Telephone Co. of Virginia*, W-P-C 6834 (filed Nov. 21, 1994). See also Speech by Hon. Reed E. Hundt, Chairman, FCC, Before the Eighth Annual Broadcasting & Cable Interface, at 5 (Oct. 4, 1994) (the cable industry opposed virtually every video dialtone application filed, and generated a stack of paper 12 feet high with over 33,000 pages).

**Conclusion**

The Commission should review its calculations to assure a proper fee calculation for each industry group. It should be wary, however, of arguments that seek to shift fees to regulatory scape goats and avoid parity among fee payers.

Respectfully submitted,

Bell Atlantic  
By Their Attorneys,

Edward D. Young, III  
Of Counsel

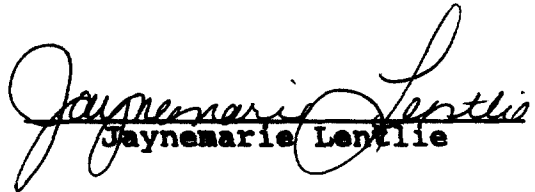
  
\_\_\_\_\_  
Michael E. Glover  
Edward Shakin

1320 North Court House Road  
Arlington, VA 22201  
(703) 974-4864

Dated: February 28, 1995

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Reply Comments of Bell Atlantic" was served this 28th day of February, 1995 by first class mail, postage prepaid, on the parties on the attached list.

  
Jaynemarie Lentlie

Mark A. Stachiw  
Airtouch Paging  
12221 Merit Drive  
Suite 800  
Dallas, TX 75251

Carl W. Northrop  
Bryan Cave  
700 13th Street, N.W.  
Suite 700  
Washington, D.C. 20005

J. Scott Nicholls  
Allnet Communications Services  
1990 M Street, N.W.  
Suite 500  
Washington, D.C. 20036

Glenn A. Rabin  
Alltel Mobile Communications  
655 15th Street, N.W.  
Suite 220  
Washington, D.C. 20005

Albert H. Kramer  
Robert F. Aldrich  
Keck, Mahin & Cate  
1201 New York Avenue, N.W.  
Washington, D.C. 20005

Christopher D. Imlay  
Booth, Freret & Imlay  
1233 20th Street, N.W.  
Suite 204  
Washington, D.C. 20036

Charles H. Helein  
Helein & Waysdorf  
1850 M Street, N.W.  
Washington, D.C. 20036

Frank M. Panek  
Ameritech  
Room 4H84  
2000 West Ameritech Center Drive  
Hoffman Estates, IL 60196-1025

Katherine M. Holden  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006

Heather Burnett Gold  
Association for Local  
Telecommunications Services  
1200 19th Street, N.W.  
Suite 607  
Washington, D.C. 20036

Richard J. Metzger  
Pierson & Tuttle  
1200 19th Street, N.W.  
Suite 607  
Washington, D.C. 20036

Mark C. Rosenblum  
Robert J. McKee  
Judy Sello  
AT&T Corp.  
Room 3244J1  
295 North Maple Avenue  
Basking Ridge, N.J. 07920

Albert Halprin  
Melanie Haratunian  
Halprin, Temple & Goodman  
1100 New York Avenue, N.W.  
Suite 650 East Tower  
Washington, D.C. 20554

Donna C. Gregg  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006

Stephen R. Effros  
James H. Ewalt  
Robert J. Ungar  
The Cable Telecommunications  
Association  
3950 Chain Bridge Road  
P.O. Box 1005  
Fairfax, VA 22030-1005

Andrea D. Williams  
Michael F. Altschul  
Cellular Telecommunications  
Industry Association  
1250 Connecticut Avenue, N.W.  
Suite 200  
Washington, D.C. 20036

Susan W. Smith  
Century Cellunet, Inc.  
100 Century Park Drive  
Monroe, LA 71203

Peter Tannenwald  
Irwin, Campbell & Tannenwald  
1320 18th Street, N.W.  
Suite 400  
Washington, D.C. 20036-1811

A.E. Henn  
Acting Commandant  
United States Coast Guard  
2100 Second Street, S.W.  
Washington, D.C. 20593-0001

Danny E. Adams  
Steven A. Augustino  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006

Raul R. Rodriguez  
Stephen D. Baruch  
David S. Keir  
J. Breck Blalock  
Levanthal, Senter & Lerman  
2000 K Street, N.W.  
Suite 600  
Washington, D.C. 20006

Genevieve Morelli  
CompTel  
1140 Connecticut Avenue, N.W.  
Suite 220  
Washington, D.C. 20036

Robert A. Mansbach  
COMSAT General Corp.  
6560 Rock Spring Drive  
Bethesda, MD 20817

Grover C. Cooper  
Lauren Ann Lynch  
Robert L. Galbreath  
Fisher, Wayland, Cooper, Leader  
& Zaragoza  
2001 Pennsylvania Avenue, N.W.  
Suite 400  
Washington, D.C. 20006

Randolph J. May  
Timothy J. Cooney  
Sutherland, Asbill & Brennan  
1275 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-0100

Howard M. Weiss  
James A. Casey  
Fletcher, Heald & Hildreth  
1300 North 17th Street  
11th Floor  
Rosslyn, VA 22209

Philip V. Otero  
Alexander P. Humphrey, IV  
GE American Communications, Inc.  
1750 Old Meadow Road  
McLean, VA 22102

Andre J. Lachance  
GTE Service Corp.  
1850 M Street, N.W.  
Suite 1200  
Washington, D.C. 20036

Anne E. Mickey  
John W. Butler  
Sher & Blackwell  
Suite 612  
2000 L Street, N.W.  
Washington, D.C. 20036

Catherine R. Sloan  
Richard L. Fruchterman  
Richard S. Whitt  
LDDS Communications, Inc.  
1825 Eye Street, N.W.  
Suite 400  
Washington, D.C. 20006



Jonathan E. Canis  
Kathy L. Cooper  
Swidler & Berlin  
3000 K Street, N.W.  
Suite 300  
Washington, D.C. 20007

Don Sussman  
MCI Telecommunications Corp.  
1801 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

Cindy Z. Schonhaut  
MFS Communications Company  
3000 K Street, N.W.  
Suite 300  
Washington, D.C. 20007

Andrew D. Lipman  
Jonathan E. Canis  
Swidler & Berlin  
3000 K Street, N.W.  
Suite 300  
Washington, D.C. 20007

Vincent J. Curtis, Jr.  
Howard M. Weiss  
Anne Goodwin Crump  
Fletcher, Heald & Hildreth  
1300 North 17th Street  
11th Floor  
Rosslyn, VA 22209

Gene P. Belardi  
MobileMedia Communications, Inc.  
2101 Wilson Boulevard  
Suite 935  
Arlington, VA 22201

Henry L. Baumann  
Jack N. Goodman  
National Association of  
Broadcasters  
1771 N Street, N.W.  
Washington, D.C. 20036

Daniel L. Brenner  
Neal M. Goldberg  
Diane B. Burstein  
National Cable Television Assoc.  
1724 Massachusetts Avenue, N.W.  
Washington, D.C. 20036

Joanne Salvator Bochis  
NECA, Inc.  
100 South Jefferson Road  
Whippany, N.J. 07981

Edward R. Wholl  
Jacqueline E. Holmes Nethersole  
The NYNEX Companies  
120 Bloomingdale Road  
White Plains, N.Y. 10605

Henry Goldberg  
Joseph A. Godles  
Daniel S. Goldberg  
Goldberg, Godles, Wiener &  
Wright  
1229 19th Street, N.W.  
Washington, D.C. 20036

Mark J. Golden  
Personal Communications Industry  
Association  
1019 - 19th Street, N.W.  
Suite 1100  
Washington, D.C. 20036

David M. Hunsaker  
John C. Trent  
Putbrese & Hunsaker  
6800 Fleetwood Road, Suite 100  
P.O. Box 539  
McLean, VA 22101-0539

Robert M. Lynch  
Mary W. Marks  
Southwestern Bell Corp.  
175 E. Houston  
Room 1262  
San Antonio, TX 78205

Jay C. Keithley  
Leon M. Kestenbaum  
Norina Moy  
Sprint Corporation  
1850 M Street, N.W.  
Suite 1100  
Washington, D.C. 20036

Craig T. Smith  
Sprint Corporation  
P.O. Box 11315  
Kansas City, MO 64112

Don R. Chaney  
Stellar Communications, Inc.  
P.O. Box 130970  
Tyler, TX 75713-0970

Charles C. Hunter  
Hunter & Mow  
1620 I Street, N.W.  
Suite 701  
Washington, D.C. 20006

Jodie L. Donovan  
Teleport Communications Group  
Two Lafayette Centre  
Suite 400  
Washington, D.C. 20036

Kathryn Marie Krause  
U S West Communications, Inc.  
Suite 700  
1020 19th Street, N.W.  
Washington, D.C. 20036

Lawrence N. Cohn  
Cohn and Marks  
1133 New Hampshire Avenue, N.W.  
Suite 600  
Washington, D.C. 20036

Paul J. Sinderbrand  
William W. Huber  
Sinderbrand & Alexander  
888 Sixteenth Street, N.W.  
Fifth Floor  
Washington, D.C. 20006-4103

ITS, Inc. \*  
1919 M Street, N.W.  
Room 246  
Washington, D.C. 20554

\* BY HAND